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5 UNITED STATES DISTRICT COURT
6 FOR THE NORTHERN DISTRICT OF CALIFORNIA
7 OAKLAND DIVISION
8

9 REGINALD DALE BARNES,

10 Plaintiff,

11 vs.

12 UNITED COUNCIL OF HUMAN
13 SERVICES,

14 Defendant.

Case No: C 19-2848 SBA

**ORDER DENYING PLAINTIFF'S
APPLICATION TO PROCEED IN
FORMA PAUPERIS AND MOTION
FOR TEMPORARY RESTRAINING
ORDER**

15 Plaintiff Reginald Dale Barnes has filed a pro se complaint to challenge an unlawful
16 detainer ("UD") judgment rendered in favor of Defendant United Council of Human
17 Services ("UCHS") in San Francisco County Superior Court. This matter is now before the
18 Court on Plaintiff's application to proceed in forma pauperis ("IFP") and motion for a
19 temporary restraining order ("TRO"). For the reasons that follow, the Court denies
20 Plaintiff's application to proceed IFP, dismisses the Complaint and denies the motion for
21 TRO as moot.

22 **I. BACKGROUND**

23 Plaintiff resides at 196 Jerrold Avenue, San Francisco, California. According to the
24 documents attached to his Complaint, that address is a "Hope House residence" operated by
25 Defendant UCHS. Compl. Ex. B, Dkt. 1 at 11. On or about August 13, 2018, UCHS
26 notified Plaintiff by letter that the lease between the Hope House Program and the landlord
27 had expired with no option of renewal. Id. As a result, UCHS's planned to relocate
28 Plaintiff to a residence located at 1315 Newall Avenue, San Francisco. Id.

1 Though it is not entirely clear from the record presented, it appears that Plaintiff did
2 not vacate his residence. Consequently, on February 11, 2019, UCHS filed a UD action
3 against Plaintiff in San Francisco County Superior Court. Id. Ex. F, Dkt. 1 at 16. On May
4 3, 2019, the superior court granted UCHS’s motion for summary judgment. Id. On May 9,
5 2019, Plaintiff appealed the ruling to the appellate department of the superior court. Mot.
6 for TRO, Dkt. 3 at 3. The status of the appeal is not alleged. However, the records
7 provided by Plaintiff indicate that final judgment was entered on May 15, 2019, and that a
8 writ of possession was issued by the court on or about May 17, 2019. Id. at 8. On May 22,
9 2019, the San Francisco Sheriff’s Department issued a Notice of Vacate. Id. at 3.¹

10 Plaintiff has now filed the instant action against UCHS along with a request to
11 proceed IFP. Dkt. 1, 2. The Complaint does not allege any claims but seeks to stay the writ
12 of possession on the ground that the superior court erred in rendering judgment in favor of
13 UCHS. In his motion for TRO, Plaintiff requests that this Court stay the writ pending
14 resolution of his appeal from the judgment in the UD action.

15 **II. LEGAL STANDARD**

16 The Court is permitted to screen complaints brought by litigants proceeding in forma
17 pauperis. 28 U.S.C. § 1915(e)(2). Plaintiff’s complaint, or any portion thereof, is subject
18 to dismissal if it is frivolous or malicious, fails to state a claim upon which relief may be
19 granted, or seeks monetary relief from a defendant who is immune from such relief. Id.
20 A complaint is frivolous under § 1915 where subject matter jurisdiction is lacking. Pratt v.

22 ¹ A judgment awarding possession to the plaintiff in a UD action does not
23 automatically oust the tenant from the premises. Rather, the plaintiff must execute on the
24 judgment through writ of possession procedures. See id. § 1170.5(a) (“if the plaintiff
25 prevails, a writ of execution shall be issued immediately by the court upon the request of
26 the plaintiff”); id. § 712.010 (“After entry of a judgment for possession or sale of property,
27 a writ of possession or sale shall be issued by the clerk of the court upon application of the
28 judgment creditor and shall be directed to the levying officer in the county where the
judgment is to be enforced.”); Bedi v. McMullan, 160 Cal. App. 3d 272, 276 (1984) (“A
valid writ of execution is the ultimate indispensable element of the legal process by which a
party entitled to possession of the property acquires possession.”). Once the court clerk
issues the writ, the plaintiff must provide the writ to the sheriff’s department, which then
posts a Notice to Vacate on the subject premises. See Cal. Code Civ. P. § 1161; Lamanna
v. Vognar, 17 Cal. App. 4th Supp. 4, 6 (1993).

1 Sumner, 807 F.2d 817, 819 (9th Cir. 1987). Pro se pleadings must be liberally construed.
2 Balisteri v. Pacifica Police Dep't, 901 F.2d 696, 699 (9th Cir. 1988).

3 **III. DISCUSSION**

4 The threshold question presented is whether the Court has the authority to afford
5 Plaintiff the relief he seeks; namely, an order enjoining UCHS from enforcing the writ of
6 possession issued by the state trial court following the judgment in favor of UCHS in the
7 UD action. It does not. Under the Rooker-Feldman doctrine, federal courts lack
8 jurisdiction to review state court rulings. D.C. Court of Appeals v. Feldman, 460 U.S. 462,
9 482 (1983); Rooker v. Fidelity Trust Co., 263 U.S. 413, 415-16 (1923). This doctrine
10 “prohibits a federal district court from exercising subject matter jurisdiction over a suit that
11 is a de facto appeal from a state court judgment.” Kougasian v. TMSL, Inc., 359 F.3d
12 1136, 1139 (9th Cir. 2004) (citing Bianchi v. Rylaarsdam, 334 F.3d 895, 898 (9th Cir.
13 2003)). A federal action constitutes a de facto appeal where “claims raised in the federal
14 court action are ‘inextricably intertwined’ with the state court’s decision such that the
15 adjudication of the federal claims would undercut the state ruling....” Bianchi, 334 F.3d at
16 898.

17 Here, Plaintiff contends that the superior court erred in entering judgment in favor of
18 UCHS and therefore the Court should stay the writ of execution while his state court appeal
19 remains pending. See Compl., Dkt. 1 at 1, 6-8. As noted, a writ of execution is the
20 mechanism to enforce a UD judgment. See Bedi, 160 Cal. App. 3d at 276. As such, the
21 writ issued to UCHS is inextricably intertwined with the UD judgment, which the Court has
22 no authority to review. See Exxon Mobil Corp. v. Saudi Basic Indus. Corp., 544 U.S. 280,
23 284 (2005) (recognizing that the Rooker-Feldman doctrine bars “cases brought by state-
24 court losers complaining of injuries caused by state-court judgments rendered before the
25 district court proceedings commenced and inviting district court review and rejection of
26 those judgments”); e.g., Dancy v. Aurora Loan Servs., LLC, No. C 10-2602 SBA, 2010
27 WL 11639683, at *2 (N.D. Cal. Sept. 2, 2010) (relying on the Rooker-Feldman doctrine to
28 deny a request to enjoin eviction proceedings).

1 Apart from the Rooker-Feldman doctrine, the injunctive relief requested by Plaintiff
2 is barred by the Anti-Injunction Act, 28 U.S.C. § 2283. The Anti-Injunction Act states that
3 “[a] court of the United States may not grant an injunction to stay proceedings in a State
4 court except as expressly authorized by Act of Congress, or where necessary in aid of its
5 jurisdiction, or to protect or effectuate its judgments.” Id. This Court as well as numerous
6 others have concluded that a request to enjoin eviction proceedings is precluded under the
7 Anti-Injunction Act. Dancy, 2010 WL 11639683, at *3 (citing cases); see also Michener v.
8 Wells Fargo Home Mortgage, No. C 12-2003 PJH, 2012 WL 3027538, at *4 (N.D. Cal.
9 July 24, 2012) (“An injunction against the unlawful detainer action is not expressly
10 authorized by Congress. Nor is such an injunction necessary to aid this court’s jurisdiction.
11 A party to an action in state court litigating possession of real property or the right to
12 tenancy does not implicate this exception....”).²

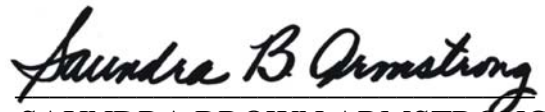
13 **IV. CONCLUSION**

14 The Court finds that it lacks subject matter jurisdiction to consider Plaintiff’s claims
15 and no amendment would cure such deficiency. Accordingly,

16 IT IS HEREBY ORDERED THAT the Complaint is DISMISSED for lack of
17 subject matter jurisdiction and Plaintiff’s application to proceed IFP is DENIED.
18 Plaintiff’s motion for TRO is DENIED as moot.

19 IT IS SO ORDERED.

20 Dated: 5/28/19


SAUNDRA BROWN ARMSTRONG
Senior United States District Judge

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26 ² Dismissals under Rooker-Feldman and the Anti-Injunction Act are for lack of
27 subject matter jurisdiction. See Henrichs v. Valley View Dev., 474 F.3d 609, 613 (9th Cir.
28 2007); Confederated Tribes & Bands of Yakama Indian Nation v. Alcohol & Tobacco Tax
& Trade Bureau, 843 F.3d 810, 815-16 (9th Cir. 2016). Jurisdictional dismissals are
without prejudice. See Kelly v. Fleetwood Enters., Inc., 377 F.3d 1034, 1036 (9th Cir.
2004).